IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6929 OF 2005

State of Maharashtra .. Applicant

Versus

Ravindra B. Mundada .. Respondent

Ms.M.M.Deshmukh, A.P.P. for applicant

Mr.Prakash Naik for respondent

CORAM : S.C.DHARMADHIKARI, J.

DATE : 14th September 2006.

P.C.

. The State has filed this application for following reliefs:-

"(a) that the bail so granted to

respondents vide order dated 23.12.1998 passed by this Hon’ble Court in Criminal Application No.3840 of 1998 may be cancelled.

(b) The respondent hereinabove be ordered to surrender forthwith in the aforesaid C.R. before the I.O."

2. In all fairness learned A.P.P. submits that an identical application was made to this Court but in the form of Criminal Revision Application. This Court has rejected the same on 11th January 2005.

3. Prior thereto Criminal Application No.2049 of 2000 was also rejected by this Court. This Court has observed that time and again applications claiming identical relief have been filed. In the order dated 11th January 2005,

this Court (Khanwilkar, J) has given details of about 12 applications made till that date for the same relief.

4. In this view of the matter and after hearing A.P.P. and Mr.Naik for respondent, I am not inclined to grant any relief to the prosecution. Application is thoroughly misconceived and it is accordingly dismissed.

5. However, the Investigating Officer Mr.Anil Dattatray Patil, Dy.Superintendent of Police and presently attached to Flying Squad, C.I.D. Maharashtra, Pune has filed an affidavit which is affirmed on 27th January 2006 and in the said affidavit he has pointed out that respondent accused has remained present before the I.O. from 16th January 2006 to 21st January 2006 and during this time, he was shown photographs of unknown persons and accused was called upon to give names and addresses of these persons. The

respondent - accused refused to give any information about these photographs. It appears that his statement is also referred in para 11 of this affidavit. The I.O. proceeds on the basis that the respondent is obliged to give his explanation with regard to the identity of the persons. Further, he refers to a notice issued under section 91 of Cr.P.C. on 18th January 2006, to which a reply has been given pointing out that the documents referred to in the notice are already in the custody of the Crime Branch Solapur. The I.O. in his affidavit states that the accused No.2 had stated that no documents/records/books of accounts were maintained for the contract in question. He also refers to the investigation papers and states that records were not found or taken into custody during the house search. He has in his possession documents and papers under seizure panchanama dated 26th November 1998. In such circumstances, as to what clarification or

explanation he desires with regard to the queries raised in the notice on 18th January 2006 is not clear from the affidavit.

6. Thus, repeated applications for such relief have to be discouraged. But, at the same time, if the court has directed that the anticipatory bail is granted subject to the condition that the accused cooperates with the investigation and attends as and when summoned, then equally it is the duty of the accused to respond to such queries and requisitions. After taking instructions from the father of the respondent who is present in Court, Mr.Naik makes a statement that on 18th September 2006 and 19th September 2006, between 12.00 noon and 6.00 p.m. the respondent would attend office of Flying Squad, C.I.D. Maharashtra, Pune.

7. In the light of this statement, in my view, the apprehension expressed in the I.Os.

subsequent affidavit should not survive. Therefore, the application is dismissed. However, dismissal of this application would not mean that the I.O. is helpless and remediless. If the respondent accused has violated and/or breached the terms and conditions on which the anticipatory bail is granted and does not comply with the statement recorded above, it would be open for I.O. to make appropriate application.

(S.C.Dharmadhikari, J)